

THE HON'BLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION No.5056 of 2007

Between:

Syed Kazim Bahadur.

.. PETITIONER

and

The Inspector of Police,
P.S.Shamshabad.

.. RESPONDENT

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ORDER:

It is the case of the petitioner that one Ralla Bandi Narahari filed

O.S.No.335 of 1998 on the file of II Additional Senior Civil Judge, Ranga Reddy District, seeking declaration that he is the owner of the suit schedule property admeasuring Ac.22-04 gts. in Sy.No.216 situated at Ramanjapur village, Shamshabad Mandal, Ranga Reddy District, and also for permanent injunction restraining the petitioner herein and one Syed Asim Bahadur from interfering with the peaceful possession and enjoyment of the suit schedule property. However, the said suit was partly decreed by judgment and decree, dated 18-11-2005, granting the relief of permanent injunction restraining the defendants therein from interfering with the peaceful possession and enjoyment of the suit schedule property. But, however, the relief of declaration that he is the owner of the suit schedule property was dismissed.

Aggrieved by the said decree and judgment, the petitioner herein and one Syed Asim Bahadur preferred A.S.No.63 of 2006 before this Court. This court by order, dated 01-12-2006, in A.S.M.P.No.263 of 2006 in A.S.No.63 of 2006 granted interim suspension of the trial court decree.

It is stated that the said interim suspension is still subsisting. Though there was no injunction in favour of the said Ralla Bandi Narahari, some miscreants have committed theft and destroyed the property of the petitioner for about Rs.40,000/-. In that regard, the petitioner filed representation, dated 26-12-2006, before the respondent and the same was referred to the Sub-Inspector of Police, Shamshabad. But, so far, no action has been taken.

It is further stated that the Inspector of Police, Shamshabad, is illegally interfering with the civil rights of the petitioner and threatening the petitioner to dispossess from the suit schedule property, which is said to

have been in possession of the petitioner.

Having regard to the facts and circumstances of the case, I am not inclined to express any opinion with regard to the possession of the petitioner, as admittedly, the appeal is pending against the judgment and decree of the trial court.

If any rights have been crystallized and finally declared and if there is any interference, it is the duty of the police to protect the properties of the citizens. But, unless and until the rights have not been finally crystallized, it is not just and proper for the police to interfere with the civil rights of the petitioner. However, if there is any illegal interference on the part of the respondent, it is open for the petitioner to make a written representation before the Superintendent of Police for taking appropriate action against the respondent. But, without making any representation, it is not just and proper for the petitioner to straight away approach this Court seeking a Writ of Mandamus declaration the action of the respondent as illegal and arbitrary.

Accordingly, the writ petition is dismissed, with a liberty to the petitioner to take appropriate action, as indicated above. There shall be no order as to costs.

13-03-2007

Prv